

Application No. 10/537,277  
Amendment dated August 5, 2008  
Reply to Office Action of June 5, 2008

Docket No.: 09610/0202789-US0

**AMENDMENTS TO THE DRAWINGS**

The attached sheet(s) of drawings includes changes to figures 1-15.

Attachment:      Replacement sheet

**REMARKS**

Reconsideration of the Application is respectfully requested.

**I. Status of the Claims**

Claims 1-18 are currently pending.

Claims 3-18 are withdrawn.

Claims 1 and 2 are examined.

**II. Status of the Drawings**

Applicant notes the rejection of the drawings. Enclosed herewith are revised Figures 1-15. No new material is added. The drawings were amended to remove all copy marks. Withdrawal of the rejection is respectfully requested.

**III. Election of Species**

Applicant notes the restriction imposed by the Examiner and withdraws claims 3-18 from consideration. Applicant, however, traverses the Examiner's indications that claim 1 is not generic. Claim 1 is at least generic to all claims that depend therefrom. Further, the Examiner has not set forth any reason why claim 1 is not generic.

Thus, Applicant further traverses that if claim 1 is found allowable and maintains its generic status that all claims be rejoined.

#### **IV. Information Disclosure Statement**

Applicant notes that the IDS submitted September 1, 2005 complies with 37 CFR 1.98(a)(1) as providing an SB/08 form with all documents listed for consideration. The Examiner has not provided to Applicant the specific detail that is the cause of the rejection of the document, since an SB/08 is a USPTO approved form and the form lists thereon all documents for consideration.

Further, attached as Exhibit A, is the return postcard stamped by the USPTO noting the receipt of the Information Disclosure Statement, SB/08 and references. Applicant notes that a stamped return postcard is *prima facie* evidence that the SB/08 was received by the Patent Office. Thus, the Information Disclosure Statement filed September 1, 2005 was complete and should be afforded its mailing date. Applicant provides herewith another copy of the SB/08 mailed September 1, 2005 for the Examiner's convenience. Accordingly, Applicant respectfully requests that the references in the September 1, 2005 IDS should be considered, the SB/08 should be initialed, and no fee is due.

#### **V. Rejection under 35 U.S.C. § 102(b)**

Claim 1 is rejected under 35 U.S.C. § 102 (b) as being anticipated by Diaz (US Pat. No. 5,139,163). Applicant respectfully traverses the rejection.

According to the Examiner, Diaz discloses a cap that covers the top face of the container by attaching below a seam of the container. However, Diaz teaches a completely different gripping means by allowing a snap fit between the lid (element 22) and cover body (element 20). *See* Figure 1; col. 6, lines 13-18. Diaz fails to teach or suggest a cap that engages the container itself to reseal.

Moreover, the Examiner contends that Diaz discloses a cap that comprises a seal face and outer-perimeter parts made as a film to expand and contract, thereby permitting the cap to attach itself to the container. However, Diaz teaches an attaching means which involves an additional step of application of heat or positioning of an adhesive between the cover and the container. *See* col. 6, lines 19-21; col. 6, lines 26-28. Diaz does not teach or suggest a cap that is self-sealing to the container.

Thus, Diaz does not teach the elements of Claim 1 of: “a cap comprising a seal face part made as a film to expand and contract... wherein an entire top face of a container is covered by said seal face by attaching an outer-perimeter part, below a seam part of said container.”

Based on the above, Applicant submits that claim 1 is not anticipated by Diaz and respectfully requests that the rejection be withdrawn.

**Rejection under 35 U.S.C. § 103(a)**

Claim 2 is rejected as being obvious over Diaz as applied to claim 1 above, in view of Deline (US Pat. No. 4,708,257). Applicant respectfully traverses the rejection.

Claim 2 is dependent on Claim 1 and describes a cap that is self-sealing to a container. Neither Deline, Diaz, nor common knowledge in the art at the time of the present invention discloses a cap that is self-sealing to the container. Deline teaches a sealing means that requires an additional step such as using an adhesive. *See* col. 2, lines 9-16. As discussed above, Diaz also teaches a sealing means requiring an additional step.

Additionally, claim 1 teaches a cap that may reseal itself to a container. Again, neither Deline, Diaz, nor common knowledge in the art at the time of the present invention discloses a cap that is able to reseal itself to a container. Diaz, as discussed above, only teaches a resealing method

that does not engage the container. Deline describes a seal that does not even include resealing properties; the sealing structure alters upon removal and cannot reseal the container. *See* col. 2, lines 61-68, col. 3, lines 1-3.

Therefore, Diaz alone, or in combination with Deline, or with any art of record, does not suggest the features of claims 1 or 2. At least for these reasons, and since claim 2 depends directly from claim 1, Diaz in view of Deline, does not render claim 2 obvious. Applicant respectfully requests that the rejection be withdrawn.

**CONCLUSION**

In view of the foregoing, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below if the Examiner believes there are any remaining issues which can be resolved through either a Supplemental Response or an Examiner's Amendment.

Dated: August 5, 2008

Respectfully submitted,

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